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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,182	10/28/2003	Volker Kronseder	30071/32009A	4300

4743 7590 03/30/2006

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1,4,6-8,10-13,23,26,27,34,35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieuwoldt (EP 0 816 248) in view of Krones (DE 298 12 169).

Nieuwoldt teaches a cover made of plastic or metal foil (page 4), attached to the cap top by "glueing, heat sealing, laser welding, or in any other suitable manner" (page 4), and having a pull tab in one embodiment (page 5). Nieuwoldt is silent regarding embossed aluminum foil.

Krones teaches it is known to provide a cover of embossed unlined, aluminum sheet 9-15 micrometers thick and embossed to a depth of 60-100 micrometers and attached with zonal adhesive. The drawing figures depict vermicular embossing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the cover of Nieuwoldt of an unlined, aluminum sheet 9-15 micrometers thick and embossed to a depth of 60-100 micrometers and attached with zonal adhesive, the embossing being vermicular. Doing so is an obvious substitution of material, since aluminum is a metal and it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding the zonal adhesive, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any pattern of adhesive desired for the amount of force desired for removing the cover from the can.

Regarding the shape of the cover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cover of a polygonal shape since such a modification would have involved a mere change in the shape of a component. A

Art Unit: 3727

change in shape is generally recognized as being within the level of ordinary skill in the art. Doing so allows for using square covers and reduces the amount of material waste cutting round covers.

Response to Arguments

3. Applicant's arguments filed January 20, 2006 have been fully considered but they are not persuasive.

Applicant argues the German patent to Krones AG (DE 298 12 169) is not available prior art against the instant claims. However, the publication date of the reference is September 9, 1999, not October 14, 1999 as asserted by applicant. This is prior to the filing date of applicant's foreign priority document. See the international search report, the attached Derwent information document, and the front of the patent document all listing the publication date as September 6, 1999,

Wherein no other arguments are presented by applicant, the combination of reference is maintained to render the claims of the instant application obvious.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3727

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

6. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

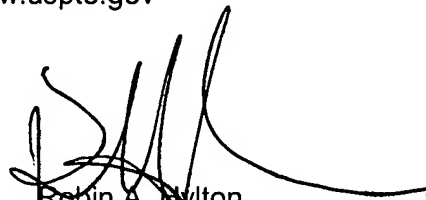
Art Unit: 3727

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
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- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
March 28, 2006



Robin A. Milton
Primary Examiner
GAU 3727